

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5846 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NAVINBHAI B GANDHI

Versus

SECRETARY,  
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Appearance:

MR SV BACHANI for Petitioner  
MR CC BHALJA for Respondent No. 1  
None present for Respondent No. 2  
MR YH VYAS for Respondent No. 3  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/97

ORAL JUDGMENT

#. Challenge has been made by petitioner by this Special Civil Application to the order annexure 'A' dated 1st June 1993 of respondent No.1, under which the services of the petitioner were ordered to be terminated.

#. The petitioner challenges the validity of the order aforesaid interalia on the ground that the same has been made without giving him notice or opportunity of hearing. The petitioner was appointed on the post of Principal of the respondent No.2 college after he was selected by the selection committee. His service were terminated on the ground that he does not fulfil the requisite qualification prescribed for the post of Principal of the Homeopathic Medical College. Heard learned counsel for the parties.

#. The learned counsel for the respondents do not dispute that the order impugned in this Special Civil Application has been passed without notice and opportunity of hearing to the petitioner. He also do not dispute the fact that the petitioner has been appointed on the post of Principal after he was selected by selection committee. In the case where the petitioner has submitted application in response to the advertisement made for inviting applications for the post of Principal, his eligibility has been examined and he has been selected by the selection committee, then before terminating his services on the ground that he do not possess requisite qualifications for the post, it was obligatory on the part of respondents to give him notice and opportunity of hearing. Under the impugned order, the services of the petitioner have been terminated on the ground of lacking eligibility for the post of Principal which has very serious civil consequence of deprival of livelihood to the petitioner and as such, before passing any order which adversely affects the livelihood of the petitioner, the respondents should have adhered to the principles of natural justice which admittedly has not been done in the present case. Only on this ground, this petition deserves to be accepted.

#. In the result, this Special Civil Application is allowed and the impugned order annexure 'A', dated 1st June 1993 is quashed and set aside. Rule made absolute in aforesaid terms with no order as to costs. However, it is made clear that acceptance of this writ petition will not come in the way of respondents to pass appropriate order of termination of the petitioner on the ground that he do not possess requisite eligibility for the post of Principal after giving him notice and opportunity of hearing.

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(sunil)